

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

**JAMES W. WALTERS, JR.,
Plaintiff**

v.

File No. 1:09-CV-84

**ROBERT HOFMANN, FRED FIGUEROA, :
RANDALL STOVALL, JOHN FERGUSON, :
VERMONT DEPARTMENT OF :
CORRECTIONS, RANDY VADARI, :
CAPTAIN GOOCH, JOHN GOEDERT, :
DR. WARREN, CORRECTIONS :
CORPORATION OF AMERICA, :
Defendants :**

ORDER

The Magistrate Judge's Report and Recommendation ("R&R") was filed December 29, 2009. (Paper 26.) It recommends that claims against certain Defendants be dismissed and the remainder of the case be transferred to the United States District Court for the Western District of Oklahoma.

The Plaintiff has not participated in the case since filing the complaint a year ago and he is no longer in custody. Prior to consideration of the R&R, Plaintiff was ordered to inform the Court by March 5, 2010 whether he intends to pursue any remaining claims that may be available to him in the Western District of Oklahoma. Failure to respond would likely result in dismissal of the case. (Paper 33.) The certified mail receipt indicates the Order was delivered personally to Plaintiff on February 20, 2010. (Paper 34.) He has not responded to the Order nor filed an objection to the R&R.

Accordingly, after de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED, with the exception of transfer of the case to the Western District of Oklahoma. See 28 U.S.C. § 636(b)(1).

The motion to dismiss filed by Defendants Robert Hofmann and Vermont Department of Corrections (Paper 16) is GRANTED and all claims are DISMISSED. The motion to dismiss filed by Defendants Corrections Corporation of America, John Ferguson, Randall Stovall, Fred Figueroa and Dr. Warren (Paper 25) is GRANTED and all claims are DISMISSED. Their motion regarding improper venue (Doc. 25) is DENIED as moot. Plaintiff has failed to respond to the Court's Order to indicate his continued interest in the case, therefore, the remaining claims against Defendants Randy Vadari, Captain Gooch and John Goedert are DISMISSED.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 2nd day of April, 2010.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
Senior United States District Judge